

FILED

DEC 18 2019

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

UTAS

In re:

GAVIN GREGORY MEHL,

Debtor(s).

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Case No. 19-26296-C-13C

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Docket Control Number CPG-1

**ORDER DENYING MOTION FOR RELIEF
FROM AUTOMATIC STAY**

Rakesh Vij ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 890 Wedgewood Court, West Sacramento, California ("Wedgewood Property"). Dckt. 8. Movant filed his own declaration and supporting exhibits as evidence that he purchased the Wedgewood Property at foreclosure sale on March 12, 2019. Dckts. 10, 11. Movant also asserts an unlawful detainer action was commenced against the debtor, Gavin Mehl ("Debtor"), entitled *Rakesh Vij v Gavin Mehl, et al, Yolo County Superior Court*, No. UD19-879.

The Motion requests relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) on the basis that neither Debtor nor the Estate have an ownership interest in the Wedgewood Property.

Prior to the hearing on the Motion, a document was filed by Debtor entitled Application For Services To Persons With Communication Disabilities. Dckt. 29. That document requested various accommodations in consideration of Debtor's disabilities.

Also prior to the hearing, Debtor filed a thirty-five page opposition. Dckt. 27. The opposition was detailed, and included legal citations supporting Debtor's arguments that Movant is not

1 the real party in interest, and that the foreclosure sale was not
2 valid. Id.

3 At the October 22, 2019, hearing, the Debtor appeared and made
4 spirited, articulate arguments similar to those made in the
5 opposition. Civil Minutes, Dckt. 33. In light of the application
6 for special services, the court granted a continuance as a
7 reasonable accommodation to allow Debtor to seek employment of
8 counsel and obtain a recording device for the proceeding. Id.

9 Since the hearing, Debtor filed numerous other pleadings,
10 including an opposition, declarations, and objections to evidence.
11 Dckts. 47-50. But, the case was dismissed on November 5, 2019, for
12 failure to timely file documents. Order, Dckt. 39.

13 Dismissal of the case terminates the stay and revests the
14 property of the estate in the entity in which such property was
15 vested immediately before the commencement of the case. 11 U.S.C.
16 §§ 362(c)(2), 349(b)(3). Therefore, the Motion For Relief From Stay
17 shall be denied as moot.

18

19 Review of Other Cases Tied to Debtor

20 The court takes judicial notice of and notes briefly
21 observations as to other cases filed which appear to be connected
22 to the Debtor.

23 Robert G. Sinclair filed a Chapter 7 case, no. 19-26199, on
24 October 2, 2019. Bankr. E.D. Cal. No. 19-26199, Dckt. 1. In that
25 case, a motion for relief from the automatic stay was filed by
26 Legacy Mortgage and Real Estate, Inc., and Majid Mashhadialireza.
27 Dckt. 21. In that motion, the movants argue that the real property
28 commonly known as 3104 Crest Haven Drive, Sacramento, California

1 ("Crest Property"), was purchased by the movants at a foreclosure
2 sale after John Mehl defaulted under the terms of the deed of
3 trust. *Id.* John Mehl was listed as a lessor of the Crest Property
4 on Schedule G and the Statement of Financial Affairs filed by
5 Sinclair. *Id.*, Dckt. 31.

6 In response to the motion for relief, Sinclair filed an
7 opposition, declaration, and evidentiary objections. *Id.*, Dckts.
8 37-39. Among the arguments advanced in the opposition was that the
9 movants were not the real party in interest. An Application For
10 Services To Persons With Communication Disabilities was also filed
11 that is suspiciously identical to the one filed in Debtor's case.

12 The court issued an Order granting the motion for relief in
13 Sinclair's case on the basis that Sinclair admitted to having no
14 equity in the Crest Property, and in consideration that state
15 court, where there was a pending unlawful detainer action, was an
16 appropriate forum for Sinclair to adjudicate his rights. *Id.*, Dckt.
17 40.

18 In addition to similar arguments and documents being filed in
19 the Sinclair case and Debtor's case, the court notes that John Mehl
20 signed several Certificates of Service in the Debtor's case,
21 testifying that he served Debtor's pleadings on various parties.
22 Dckts. 51, 53, 57, 60.

23 The other case that has fallen into purview is a Chapter 7
24 case filed by Donovan Constantine on June 20, 2019. Bankr. E.D.
25 Cal. No. 19-23900, Dckt. 1. Constantine filed his case one day
26 before a scheduled unlawful detainer trial with respect to the
27 Wedgewood Property. Declaration, Dckt. 11 at ¶ 5. While
28 Constantine listed the Wedgewood Property as his residence, when

1 Schedule A/B was later filed no interest in the Wedgewood Property
2 was asserted. Bankr. E.D. Cal. No. 19-23900, Dckts. 1, 13.

3 In Debtor's case, the Declaration of Casey Constantine was
4 filed as Exhibit 2. Casey Constantine testifies that he is a tenant
5 of the Wedgewood Property, where Debtor was the landlord.

6 Exhibit 2, Dckt. 10 at 2:5-9. Casey Constantine also testifies that
7 he is not aware of any person named Donovan Constantine. Id. at
8 1:27-2:1.

9 In response to the motion for relief filed in Debtor's case,
10 Debtor filed his declaration testifying "I declare to have no
11 involvement over Donovan Constantine filing Bankruptcy. That was
12 his decision and has nothing to do with me." Declaration, Dckt. 48
13 at ¶ 6. This is notable because no party thus far has alleged that
14 there is any connection between Debtor and Donovan Constantine.

15 The court having reviewed the Motion For Relief From Automatic
16 Stay, the supporting pleadings, and the record:

17 IT IS ORDERED that the Motion For Relief is denied as moot,
18 the case having been dismissed.

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21 Dated: December 18, 2019



United States Bankruptcy Judge

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1 **INSTRUCTIONS TO CLERK OF COURT**
2 **SERVICE LIST**

3 The Clerk of Court is instructed to send the attached
4 document, via the BNC, to the following parties:

5 Office of the U.S. Trustee
6 Robert T Matsui United States Courthouse
7 501 I Street, Room 7-500
8 Sacramento, CA 95814

9 Gavin Gregory Mehl
10 890 Wedge Wood Court
11 West Sacramento, CA 95605

12 David Cusick
13 PO Box 1858
14 Sacramento, CA 95812-1858

15 Cary P. Greisen
16 4120 Douglas Blvd., Ste. 306-192
17 Granite Bay CA 95746